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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,186	10/20/2003	Felix L. Sorkin	1101-171	6672
7590	10/20/2005		EXAMINER BERGERON, ROLAND C	
John S. Egbert Harrison & Egbert 7th Floor 412 Main Street Houston, TX 77002			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 10/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/688,186

Applicant(s)

SORKIN, FELIX L.

Examiner

Roland Bergeron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/30/2004</u> .   | 6) <input type="checkbox"/> Other: ____                                     |

### **DETAILED ACTION**

1. Claims 1-20 have been examined.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "50" has been used to designate both a third leg and a gusset. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

3. The specification is objected to because the description of figure 1, item 34, is not disclosed in the specification.
4. The specification is objected to because U. S. Patent No. 5,893,892 reference on page 4 was not issued to Hardy, Jr. et al. and it does not refer to apparatus for fixing and elevating rebar lattice. Correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,673,753 to Anderson in view of U.S. Patent 6,276,108 B1 to Padrun.

Anderson shows in Figures 1-4 and respective sections of the specification (Column 2, lines 1-67) shows a bar support/apparatus/support structure (10) with a base (12) that extends from said base having a channel (18) sizable for receiving a first rebar (A). He shows a C-shaped, first and second clamping structure affixed to a support structure (10) having an interiors (28a and b) in parallel for receiving a second bar (B) extending in a transverse direction on opposite sides to a first rebar (A) that would be positioned in a channel (12). The C-shaped, first and second clamping

structure (32) are extending upwardly from the support structure (10). The first and second clamping structure has a rib (24a) formed on a surface adjacent to the channel (18) extending outwardly of the exterior of its respective clamping structure. The first and second clamping structures (32) are also showed positioned above the channel (30). Anderson discloses in the specification (column 1, lines 45-50) that the bar support/apparatus/support structure apparatus is made of plastic (strong resilient synthetic material - like nylon).

Anderson shows in Figures 1-3, four legs (16) extending upward from a side of its base (12). A leg is positioned on the opposite side of the other leg of the base (12). The additional leg (or fourth leg) is between the first and second legs. The legs are extending at an acute angle upwardly from the base (12) with flaired/web ends. He shows a first and second gusset (area in contact/joint between the bottom of the leg and the base). He also shows several holes/openings (open area between each leg from the support structure to the base) in its support structure.

Anderson does not show an arm extending upwardly from a bottom of the C-shaped member structure (32).

Padrum shows in Figures 1-3 and discussed in the specification (column 2, lines 26-47) an arm extending upwardly from bottom of the C-shaped member that includes an upper portion (46) relative to top of the C-shaped member (34). The arm has a lip of at the said upper portion (46) extending in a direction away from the top of the C-clamped (34) structure. The flexible (plastic) upper portion (46) of the C-shaped structure is shown spaced at a distance less than a diameter of the second rebar (14).

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Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to add an arm to the bottom of the C-shaped member bar support of Anderson as modified by Padrun such that the rebar could be easily inserted and clamped in the rebar support structure. The motivation of adding the arm of Padrun to the rebar support C-clamp structure of Anderson would serve to provide an additional guide for placing a rebar element while providing stronger snap-fitting feature for locking a rebar element securely in place.

### ***Conclusion***

Other references used but not cited in this office action are shown on the Notice of References Cited (PTO-892) form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Bergeron whose telephone number is (571) 272-2943. The examiner can normally be reached on 7:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RCB

10/14/05



**Carl D. Friedman**  
**Supervisory Patent Examiner**  
**Group 3600**